

The Honorable Richard A. Jones
The Honorable J. Richard Creatura

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

EL PAPEL, LLC, et al.,

Plaintiffs,

v.

JAY R. INSLEE, in his official capacity as
Governor of the State of Washington, et al.,

Defendants.

NO. 2:20-cv-01323-RAJ-JRC

DEFENDANT GOVERNOR JAY
INSLEE'S OBJECTIONS TO
REPORT AND
RECOMMENDATION

NOTED FOR: JANUARY 1, 2021

OBJECTIONS

Defendant Governor Jay Inslee respectfully submits three objections to the Report and Recommendation (Report) issued on December 2, 2020. Dkt. #63. First, the Report states that "Washington State Governor Jay Inslee's moratorium" (the Moratorium) "is in place for the duration of the COVID-19 health crisis." Dkt. #63 at p. 1. The Governor objects to this sentence because the Moratorium is currently set to expire on December 31, 2020, *see* Dkt. #52-1 at p. 5, which the Report later notes, *see* Dkt. #63 at p. 4. No decision has yet been made regarding any further extension of the Moratorium.

Second, the Report "assumes, without deciding, that there is a 'substantial' impairment of the [Plaintiffs'] leases." Dkt. #63 at p. 12. While this assumption does not amount to a factual finding or conclusion of law, in an abundance of caution the Governor objects to it to preserve

1 his argument that the Moratorium does not substantially impair any contractual relationships for
 2 the reasons stated in his response. *See* Dkt. #28 at pp. 19–22.

3 Third, the Report states that Plaintiff Li’s tenant “is apparently continuing to earn a
 4 substantial income” and “[p]resumably, the tenant’s nonpayment of rent is not related to the
 5 pandemic.” Dkt. #63 at p. 22. To the extent these represent factual findings, the Governor objects
 6 that they lack support in the record. While Li asserts that his tenant earned “about \$158,000 in
 7 2017 and 2018” and was employed “as of September 28, 2020,” Dkt. #51-1 ¶¶ 4–5, the record
 8 contains no evidence of her current employment status and income or the pandemic’s impact on
 9 her ability to pay rent.

10 DATED this 16th day of December, 2020.

11 ROBERT W. FERGUSON
 12 Attorney General

13 /s/ Zachary Pekelis Jones

ZACHARY PEKELIS JONES, WSBA #44557

BRIAN H. ROWE, WSBA #56817

Assistant Attorneys General

JEFFREY T. EVEN, WSBA #20367

Deputy Solicitor General

zach.jones@atg.wa.gov

brian.rowe@atg.wa.gov

jeffrey.even@atg.wa.gov

Attorneys for Defendant Governor Jay Inslee

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will send notification of such filing to all counsel of record.

DATED this 16th day of December 2020, at Palm Springs, California.

/s/ Zachary Pekelis Jones

ZACHARY PEKELIS JONES, WSBA #44557
Assistant Attorney General